United Nations A/HRC/25/NGO/59

General Assembly

Distr.: General
25 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by France Libertes: Fondation Danielle Mitterrand, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11271

1411271

Please recycle

The urgent situation in Sri Lanka

Root causes need to be analyzed if the international community desires to support the search for a just and equitable solution to the unresolved situation in the island of Sri Lanka.

According to historians, the Tamils are predominantly Saivites (known as Hindus), whose religion and written language date back more than 2,500 years. The Sinhalese people are predominantly Buddhists.

The Portuguese (1505) and the Dutch (1658) colonial powers ruled the kingdoms of the Tamil and Sinhalese peoples separately, each people having a distinct culture, religion and language. In 1796, Britain conquered the island and for administrative convenience, amalgamated the Tamil and Sinhalese kingdoms in 1833, creating a 'unitary state' brought across around a million Tamils from South India to work mainly on tea plantations in the Central Hill Country.

Marginalization of Tamils' rights under the guise of democracy

Although Parliament was prohibited from introducing discriminatory legislation, laws that discriminated against Tamils were introduced and implemented. A policy of colonizing the Tamil homeland areas was systematically implemented with methodical precision and calculated aggression.

This process of internal colonization changed demographic patterns, altering electoral boundaries and creating new Sinhala electorates for the rapidly increased number of Sinhalese settlers. Colonization of the Tamil areas continues today.

Independence was granted to Ceylon in 1948. Under the provisions of the Ceylon Citizenship Act 1948, almost all the Tamils in the Central Hill Country were denied citizenship, leaving them stateless. They were then disenfranchised, resulting in expansion of the already large majority of Sinhalese voters.

Due to political reasons, the Sinhalese leader Bandaranaike converted from Christianity to Buddhism and learnt the Sinhala language. He promised two changes that would attract the support of the Sinhalese Buddhist majority. These were, in 1956, to change the official language from English to Sinhala only, and to make Buddhism the exclusive state religion.

Further erosion of the Tamils' rights took place over the following decades. In education admission was based no longer on merit but on ethnic origin. In 1972, the Sinhalese leadership brought in a republican constitution which abolished the right to appeal to the Privy Council and also abolished Section 29 of the 1946 constitution, ultimately intended to protect numerical minorities. It renamed the island 'Sri Lanka' (a Sinhala name) and, in a clear move away from secularism, proclaimed that 'Sri Lanka shall give to Buddhism the foremost place'. This constitutionally secured the ability of the Buddhist clerics, alongside Sinhalese politicians, to maintain Sinhalese control.

Alongside the non-violent resistance movement in the 1950s and 1960s, and its expressions of civil disobedience protests, Tamil politicians proposed political solutions. However, agreements for peace, based on a quasi-federal system devolving certain powers to the Tamils in the north-eastern province signed between the Sinhalese leaders (prime ministers) and the Tamil leaders (parliamentarians) to resolve the political turmoil in the country (Banda-Chelva Pact 1957 and Senanayake-Chelvanayagam Pact of 1965) were unilaterally abrogated by the Sinhalese prime ministers then in power.

After that some 500 Tamils were killed in political violence and anti-Tamil riots, they had exhausted all possibilities through dialogue before they were driven to exercise their right to self-determination, voting overwhelmingly for external self-determination, in elections in 1977. The government reacted by introducing the Sixth Amendment to the Constitution, prohibiting peaceful advocacy of independence. The constitution itself further denied Tamils an effective role in the decision-making process. This oppressive situation eventually led to violent conflict.

Genocide

Based on historical and socio-political evidence, the Tamils of the north-east fulfil all the criteria to be recognized as a distinct people: not only a culture that possess a native language, but also one that has inhabited a traditional settlement area, has a shared history and has democratically expressed a collective will.

In the early 1980s, the persecution intensified. In 1981 the library in Jaffna was burnt to the ground by Sinhalese policemen. Some 95,000 ancient texts and manuscripts were destroyed. In July 1983, over 3,000 Tamils were killed, many of them burnt alive. Electoral lists were used to identify Tamil homes. The police and army encouraged the killings. The international community recognized this as genocide.

Impunity

More than 90 mass killings of Tamils by the Sri Lankan security forces took place in the north-east between 1956 and 2008. The absence of any effective means of bringing perpetrators to justice, has helped to fuel the conflict. In 1998, the UN Special Rapporteur on Extrajudicial Killings, Bacre Waly Ndiaye, stated,

"Effective impunity encourages political violence and is a serious destabilizing element in all contexts of the Sri Lankan socio-political system … This culture of impunity has led to arbitrary killings and has contributed to the uncontrollable spiralling of violence. (UN Commission on Human Rights 1998, 27, paragraph 119)."

The Prevention of Terrorism Act (PTA) of 1979 still gives unlimited powers to the Sri Lankan security forces to arrest, detain, torture, rape, kill and dispose of the bodies of Tamils with impunity. It allows confessions under torture as admissible evidence in court. Academics, human rights defenders, educationalists, parliamentarians, journalists, business people and others have been killed by security forces with impunity.

Years of conflict and war have imparted a devastating effect on the lives of hundreds of thousands of people. More than a million people were displaced multiple times and living in conditions of extreme poverty. The Sri Lankan army still occupies Tamil people's homes, schools and places of worship, preventing them from returning home.

It is significant that for more than twenty years, negotiations between the two parties at war, the Liberation Tigers of Tamil Eelam and the Sri Lankan government, took place in countries outside Sri Lanka. The international community facilitated talks in Thimpu, Bhutan in 1985; Bangalore, India in 1986; Sattahip and Rose Garden, Thailand, Oslo, Norway and Hakone, Japan in 2002; Berlin, Germany in 2003 and Geneva, Switzerland in 2006. Sri Lanka withdrew from the last peace talks in January 2008.

The number of Tamil civilians killed by government forces prior to 2009 exceeds 100,000. In the last days of the war, the UN records affirm that at least 40,000 more Tamil civilians were killed. Flagrant breaches of international humanitarian law were committed. The atrocities constitute war crimes and crimes against humanity.

In 2011, the UN Panel of Experts appointed by Ban Ki-moon to advise him on accountability in Sri Lanka concluded that "the conduct of the war represented a grave assault on the entire regime of international law to protect individual dignity during both war and peace".

The government denies knowing anything about the thousands of youths and men who surrendered to the security forces in May 2009, Nevertheless the way 11-year-old Balachandran was brutally murdered, gives a clue about the fate of others. It is strongly believed that under direct orders from the Secretary of Defense, they were all summarily executed. Not to speak about sexual abuse and torture and cruel treatments' reports.

An important turning point was resolution A/HRC/22/l.1/Rev.1, which called upon the Government "to conduct an independent and credible investigation into allegations of violations of international human rights law and international humanitarian law.

The UN High Commissioner on Human Rights in her oral update on promoting reconciliation and accountability in Sri Lanka (A/HRC/24/CRP.3/Rev.1) presented to the HRC 24th session in September 2013, identified a number of urgent facts including the pervasive role of the military in all areas of civilian life, the inadequacy of the new commission on disappearances and the degree to which the rule of law is being undermined and eroded. As to freedom of expression, there exists a continuing high levels of harassment and intimidation against human rights defenders, lawyers and journalists, reports that people in places she visited in the Mullaitivu area, were controlled by police or military officers before and after her arrival and in Trincomalee, people were questioned about the content of their conversation. Complaints were also expressed in Trincomalee, Mullaitivu, Jaffna and Kilinochchi about compulsory acquisition of private land used for military installations.

The last event in this respect is the blocking, on February 12th last, of two more Tamil Websites, a further Government crackdown on media freedom, compounded with reports of physical attacks on Tamil journalists and Tamil media offices.

The war ended five years ago, but the attack on Tamil media continues aiming at intimidating and silencing Tamils thus tightening all avenues of free speech ahead of 25th UN Human Rights Council Session, where a Sri Lanka resolution for War Crimes will be debated.

All delegates to the Human Rights Council are urged to grasp and understand the background and root causes of this urgent situation in Sri Lanka and to take decisive action, i.e. by adopting a resolution, in order, to say the least, trying to pay justice to the victims of a wounded people.

An international war crimes investigation is needed to ascertain the responsibility of some 70.000 Tamils killed in the "No-Fire Zones" established by the Sri Lanka Government during the last five months of the war in 2009.